

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES U. PAYNE,

Plaintiff,

Case No. 18-cv-10814

Hon. Linda V. Parker

v.

Mag. Elizabeth A. Stafford

DEPUTY JUSTIN R. SAWYER, et al.,

Defendants.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S AUGUST
28, 2018 REPORT AND RECOMMENDATION (ECF NO. 24), DENYING
PLAINTIFF’S MOTION FOR DEFAULT JUDGMENT (ECF NO. 10)**

James U. Payne, Plaintiff, proceeding *pro se*, filed this lawsuit under 42 U.S.C. § 1983, alleging violations of his constitutional rights under the Fourth and Fourteenth Amendments. (ECF No. 1.) On April 27, 2018, Plaintiff filed a “letter” with the Court that, in part, sought a default judgment against Defendant Sawyer. (ECF No. 10.) On August 28, 2019, Magistrate Judge Stafford issued a Report and Recommendation (“R&R”) denying Plaintiff’s motion for default judgment because: (1) the usual procedural rules for answering complaints do not apply in § 1983 actions, and (2) since the Court never ordered Defendant Sawyer to answer Plaintiff’s complaint, he had no obligation to file an answer. *Jones v. Bock*, 549 U.S. 199, 200 (2007). Consequently, a default judgment cannot be

granted in Plaintiff's favor. *See Robinson v. Tansel*, No. 2:16-CV-10135, 2017 WL 1963904, at *3 (E.D. Mich. Apr. 26, 2017), *adopted*, 2017 WL 1954533 (E.D. Mich. May 11, 2017). Notably, Plaintiff did not file any objection to Magistrate Judge Stafford's R&R. Accordingly, the Court adopts Magistrate Judge Stafford's August 28, 2018 R&R, denying Plaintiff's motion for default judgment.

Accordingly,

IT IS ORDERED that Plaintiff's motion for default judgment (ECF No. 10) is **DENIED**.

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: October 4, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, October 4, 2018, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager